

ESCAMBIA COUNTY ALABAMA
DISTRICT CIVIL FILING PROCEDURES
Except Small Claims or Detinue Actions (Evictions)

These simplified procedural instructions are a courtesy of this county's Circuit Clerk. It is important to understand the implications of self-representation. By doing so you are acting as your own lawyer and **you are accepting full responsibility** in seeing that your claim is successfully presented at each stage of the procedure until it is concluded.

1. To commence the filing of a civil suit in District Court, complete the ***Statement of Claim*** (form C-88). The forms mentioned herein are available at <http://eforms.alacourt.gov> or at the Circuit Clerk's Office, located at ; 314 Belleville Avenue, Room 214, Brewton, AL 36426.

To complete the form selected, the minimal requirements needed are;

- (a) a valid postal address for the Plaintiff - the one filing the claim.
- (b) a valid postal address for the Defendant(s) - the one(s) being sued.
- (c) a definite claim amount, (do ***not*** include court cost in the claim amount), or an accurate description of the specific property with its monetary value.
- (d) a short summary of the reason for the claim.
- (e) a proper signature identifying the filer/Plaintiff.

The filing fee for a suit in District Civil Court in Escambia County Alabama is;

\$305.00 for a claim \$6,000.00 and up to \$20,000.00 (the maximum).

The standard fees listed are for one(1) plaintiff and one(1) defendant. Each additional defendant is \$40.00, and each additional plaintiff is \$50.00 .

The filing fee must be paid at the time of the filing by Money Order, Cashier's Check, or Cash. ***** personal checks are not accepted. *****

*****(No Evidence Is To Be Filed At This Stage)*****

2. The Clerk will assign your claim a case number and mail you a copy of the Summons and Complaint which were issued for service. **Take Note of that case number on the documents, it is to be referenced in all verbal and written correspondence with the court.** The Clerk will issue a summons with a copy of the complaint, to be served by the Sheriff, or via certified mail, (fees apply), if defendant being sued lives out-of-state.

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3. When the **return of service** or the **return of non-service** is filed with the Clerk, the Plaintiff will be notified by first-class mail.

-or-

You may elect to receive all court notices by e-mail and/or text on your phone. If so, complete and file the ***Election To Receive Court Notices By e-Mail Or Text In Lieu Of First-Class Mail*** (form PS-24) with the Circuit Clerk's Office, 314 Belleville Avenue, Room 214, Brewton, AL 36426

4. Once properly served the Defendant will have fourteen(14) days from the date of service to file a response. You will be notified (copied) of this response.

If the Defendant is not served, the Plaintiff may request for service to be reissued. (fees may apply).

5. Depending upon the Defendant's response to the complaint, one or more of the following actions may take place, if they :

Agree - If the defendant files a response admitting to the allegations in the complaint, the plaintiff may file a Motion for Consent Judgment to request an action from the court. There is no state supplied form for this. The filing of a motion must have the case number listed at the top, followed by what you are requesting of the court and why, then signed by the Plaintiff (filer).

Deny -or- Admit to Only Some - If the Defendant files a response denying the allegations in the complaint, or admitting to owing only some of the amount claimed but not all, the case will be given a court date and all parties will be notified approximately fourteen(14) days prior to the court date set.

No Response - If the Defendant does not file a response to the complaint, the Plaintiff may request a Default Judgment in their favor for the amount(s) listed on the complaint. A request for Default Judgment is a two(2) part process;

(part 1) the Plaintiff must complete and file an ***Application/Affidavit for Entry of Default*** (form C-25) with the Clerk for the default to be entered by the Clerk.

(part 2) the Plaintiff must complete and file an ***Application/Affidavit for Entry of Default Judgment*** (form C-25A) with the Clerk before a default judgment may be considered by the Judge. There is a \$50.00 filing fee for this action.

ESCAMBIA COUNTY ALABAMA
DISTRICT CIVIL FILING PROCEDURES for
REMEDIES to COLLECT ON A JUDGMENT
Except Small Claims or Detinue Actions (Evictions)

NOTE CONCERNING JUDGMENTS AND APPEALS:

The judgment of the court becomes *final* after fourteen (14) days from the entry of the judgment. If either party is dissatisfied with the District Court's decision, the dissatisfied party may appeal the decision within that fourteen (14) days before the judgment is final by filing a Notice of Appeal (*form C-35*) with the District Clerk. The Notice of Appeal must be accompanied by the appropriate filing fee, or an Affidavit of Substantial Hardship (*form C-10-CIVIL*) to have the filing fee waived, and a Bond or Security for Costs if there was a judgment against you.

NOTE ON POST- JUDGMENT REMEDIES:

The party for whom the judgment is entered in favor of (the creditor) is responsible for the collection of the judgment from the party who owes the judgment (the debtor). **The Clerk, the Court, or the State are NOT responsible for the collection of said judgment(s).** The State does offer forms for the following post-judgment processes to assist in collection of the judgment, including court cost, and other monies if awarded in the ORDER. These processes are actionable only after the judgment is Final. (see above).

- A. **Process of Garnishment** (*form C-21*) – is a writ (order) to take part of a debtor's wages or other monies owed to him/her before he or she receives the money. The Writ of Garnishment is served on the debtor, and the debtor's employer, or financial institution, individual, or company holding the money owed to the debtor. (they are the Garnishee).
For this action, there is a \$90.00 filing fee, which may be added to the amount to be garnished.
- B. **Writ of Execution** (*form C-20*) – is a writ (order) directing the Sheriff to seize specific property owned by the debtor, to either restore possession of the property to the creditor, or to auction the property for which the proceeds from the sale of said property are then (in part) used to pay for all or a portion of the judgment owed to the creditor.
For this action, there is a \$60.00 filing fee, which may be added to the total cost listed.

NOTE REGARDING FORMS:

The forms noted in these instructions may be found at <http://eforms.alacourt.gov> or at the Circuit Clerk's Office, 314 Belleville Avenue, Room 214, Brewton, AL 36426

IF YOU ARE UNCERTAIN AS TO HOW TO FILE THE APPROPRIATE FORMS BEYOND THESE INSTRUCTIONS, YOU SHOULD CONSULT A LAWYER FOR ADVICE. THE CLERK AND OTHER COURT PERSONNEL ARE PROHIBITED BY LAW TO GIVE YOU LEGAL ADVICE . (per Section 34-3-6 of The Code of Alabama 1975)